

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NCLN 20, INC. and STEVE JONES,

Plaintiffs,

Case No. 05-60198

v.

Hon. John Corbett O'Meara

VITO DANZO, et al.,

Defendants.

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**ORDER DENYING DEFENDANTS' MOTION TO DISMISS  
FOR IMPROPER VENUE AND ORDER OF PARTIAL DISMISSAL**

Before the court is Defendants' motion to dismiss for improper venue, filed August 31, 2005. Plaintiffs filed a response on September 14, 2005. The court heard oral argument on October 20, 2005. For the reasons stated on the record, Defendants' motion is denied.

Plaintiffs' complaint sets forth three counts: Count I, violation of 42 U.S.C. § 1983; Count II, violations of the Michigan constitution; and Count III, gross negligence. Plaintiffs do not allege that diversity jurisdiction exists. Although Count I is cognizable in this court pursuant to 28 U.S.C. § 1331, the remaining allegations present claims based on state law. This court declines to exercise supplemental jurisdiction over Plaintiffs' state law claims so as to avoid jury confusion. See 28 U.S.C. § 1367(c); United Mine Workers v. Gibbs, 383 U.S. 715 (1966); Padilla v. City of Saginaw, 867 F. Supp. 1309 (E.D. Mich. 1994).

Accordingly, IT IS HEREBY ORDERED that Defendants' August 31, 2005 motion to dismiss is DENIED.

It is further ORDERED that Counts II and III of Plaintiffs' complaint are DISMISSED.

s/John Corbett O'Meara  
John Corbett O'Meara  
United States District Judge

Dated: October 20, 2005